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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAMON AMADOR-BRACAMONTES,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-72583

Agency No. A77-357-141

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 15, 2006^{**}

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges

Ramon Amador-Bracamontes, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' decision adopting and affirming the immigration judge's denial of his application for cancellation of

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal. He contends that his return to Mexico in 1991 did not prevent him from satisfying the continuous physical presence requirement of 8 U.S.C.

§ 1229b(b)(1)(A). We have jurisdiction under 8 U.S.C. § 1252. We grant the petition and remand for further proceedings.

We reject respondent's contention that Amador-Bracamontes failed to exhaust administrative remedies. He raised the voluntary return issue in his brief to the Board. *See* 8 U.S.C. § 1252(d)(1); *Ladha v. INS*, 215 F.3d 889, 903 (9th Cir. 2000).

Amador-Bracamontes testified that in December 1991 he went to Mexico for one day. When he attempted to cross back into the United States illegally, he was arrested by the border patrol, fingerprinted, and returned to Mexico. In his application for cancellation of removal he stated that his return was a "vol. departure."

An alien who departs the United States pursuant to an administrative voluntary departure in lieu of deportation or removal proceedings interrupts his physical presence in this country. *Vasquez-Lopez v. Ashcroft*, 343 F.3d 961, 972 (9th Cir. 2003) (per curiam). When an alien is simply "turned around at the border" by immigration officials, however, his departure does not interrupt his continuous physical presence. *Tapia v. Gonzales*, 430 F.3d 997, 1002-04 (9th Cir.

2005) (finding no interruption even when alien was fingerprinted and information about his attempted entry was entered into government's computer database).

This is a pre-*Tapia* case. On the record before us, we cannot determine whether Amador-Bracamontes received administrative voluntary departure under threat of deportation or removal. We therefore grant the petition and remand for further proceedings concerning the nature of Amador-Bracamontes's contacts with immigration officials in 1991. *See Ibarra-Flores v. Gonzales*, 439 F.3d 614, 620 (9th Cir. 2006).

PETITION FOR REVIEW GRANTED; REMANDED.